

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

D. DEATON, et al
Plaintiff,

v.

PATRICIA STEPHENS, et al
Defendants.

CASE NO. 2:23-cv-00713-RDP

**MOTION TO CLARIFY OR IN THE ALTERNATIVE MOTION FOR EXTENSION OF
TIME TO SERVE COMPLAINT**

COME NOW Plaintiffs respectfully request this Honorable Court to clarify that service on an individual shareholder of an entity is effective service or grant an extension of time for Plaintiffs to serve alias summons on (2) Defendant entities. In further support thereof, Plaintiffs state as follows:

1. Plaintiffs have served all individual Defendants in this action.
2. The principals of all Defendant entities have been served.
3. Plaintiffs believe service has been perfected on all Defendants following instructions from the Clerk.

4. At least one Defendant believes entities are to be bound to respond to the Complaint pursuant to the date the principal of the entity was served¹.
5. Plaintiffs have attempted to resolve any potential disputes regarding service of all Defendants.
6. Plaintiffs understand Wallace, Jordan, Ratliff & Brandt LLC have retained Ms. Jennifer Segers of Huie Fernambucq & Stewart, P.C. as counsel.
7. Plaintiffs have served the Managing Partner and two additional partners at Wallace, Jordan, Ratliff & Brandt LLC, who are individual defendants. Plaintiffs have requested Huie Fernambucq & Stewart, P.C. inform the Court as to their representation of Wallace, Jordan, Ratliff & Brandt LLC after the managing partner was served, but a notice of appearance and/or waiver of summons have not been filed as of the time of this motion.
8. Plaintiffs have communicated² with counsel for Dr. Alan Blotcky, who has been served³ and filed a “Motion to Dismiss” (doc. 161), regarding a notice of appearance and/or waiver of summons of the entity Alan D. Blotcky, Ph.D., LLC.
9. On August 25, 2023, Thomas Dazzio, Ethan Wright and Jess Boone of Friedman, Dazzio and Zulanis, P.C. each filed separate motions to withdraw (doc. 184, doc. 185 and doc. 186) before this Court. Due to recent changes in counsel, Plaintiffs request additional time to serve Alan D. Blotcky, Ph.D., LLC via alias summons if the Court finds the entity is not bound to the same response date as the shareholder and registered agent.

¹ doc. 22 p. 1 at footnote 1

² On July 25, 2023, Plaintiffs communicated with counsel regarding Dr. Blotcky’s entity (Defendant Alan D. Blotcky, Ph.D., LLC). Plaintiffs continued attempting to communicate with Dr. Blotcky’s counsel regarding a notice of appearance and/or waiver of summons of Defendant Alan D. Blotcky, Ph.D., LLC.

³The process server reported Dr. Alan Blotcky evaded service and many attempts were required.

10. Out of an abundance of caution, Plaintiffs request a 30-day extension to file an alias summons on Wallace, Jordan, Ratliff & Brandt LLC and Alan D. Blotcky, Ph.D., LLC if the Court finds service on the shareholder is not sufficient.

WHEREFORE, Plaintiffs pray this Court will clarify that service on an individual shareholder of an entity is effective service or grant an extension of time to serve alias summons on (2) Defendant entities.

Respectfully submitted this 1st day of September, 2023.

/s/ Scott Tindle

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of September, 2023, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

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